

STATEMENT OF FACTS

Your affiant, Mustafa Kutlu, is a Special Agent with the Federal Bureau of Investigation (FBI). I have been in this position since September 2018. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of violations of Federal criminal laws.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

On January 10, 2021, the FBI received information that the Facebook user with the vanity name SV Spindrift (Subject-1) bragged about breaking into the United States Capitol Building and posted a video showing Subject-1 in the front of the pack pushing against the police. The information stated that the video was later removed from Facebook. The information included the following link to Subject-1's Facebook account.

<https://www.facebook.com/profile.php?id=100004195239438>.

Your affiant determined from the provided link that the account identifier associated with Subject-1's Facebook account was 100004195239438. Publicly available information on Subject-1's Facebook page did not list any identifying information. However, it contained the following picture.



On January 14, 2021, your affiant served Facebook a subpoena, requesting all customer or subscriber account information for any and all accounts associated with Subject-1's Facebook account from January 6, 2021 8:00 PM (EST) to January 10, 2021 6:00 AM (EST). Upon analyzing the results of the subpoena that Facebook provided, your affiant determined that the email address jfischer@XXXXXX.org and phone number ending in -6390 were listed under account details.¹ Open source research indicated that the email address jfischer@XXXXXX.org was associated with Joseph Fisher, a Patrolman at North Cornwall Township Police Department in Pennsylvania. Searches conducted in law enforcement databases indicated that the phone number ending in -6390 was associated with Joseph W Fischer, date of birth (DOB) XX/XX/1966 and an address in Jonestown, Pennsylvania.

¹ The full email address and phone number were provided in the records; however, because this is being publicly filed, that information is partially redacted here.

On January 18, 2021, cellular telephone number analysis conducted for the cell phone number ending in -6390 indicated that the cell phone was active on Verizon towers servicing the U.S. Capitol on January 6, 2021, from about 3:19 P.M. until about 3:28 PM.

On February 8, 2021, your affiant obtained records from Facebook for Fischer's Facebook account pursuant to a search warrant. Your affiant analyzed the results and identified the following.

On January 7, 2021, Fischer posted a 2 minute and 43 second video on Facebook which showed the recorder of the video walking amongst crowds of people towards an entrance to a building, eventually entering the building. The video was accompanied with the text "Made it inside ... received pepper balls and pepper sprayed. Police line was 4 deep.. I made it to level two..." At about the 50 second mark of the video, it appears that the recorder begins yelling "Charge!" Towards the end of the video, the recorder started charging towards a line of police officers while appearing to shout "Hold the Line" and "Motherfuckers". The recorder had a physical encounter with at least one police officer. The recording device seemed to fall to the ground, possibly as a result of the physical encounter with the police. At least one individual could be seen on the ground. Before the end of the video, an individual could be heard shouting "Let him up...Let him up". Still images from the video recording are included below.





On January 7, 2021, Fischer provided the following comment to a Facebook post:

“there was some minor destruction and a few things were stolen ... but 98% peaceful.. I was there..we pushed police back about 25 feet. Got pepper balled and OC sprayed , but entry into the Capital was needed to send a message that we the people hold the real power”

On January 6, 2021, Fischer provided the following comment to another Facebook post:

“it was mostly peaceful... a few became destructive. Not near as bad as media was making it out...hell I was inside the capital talking to police”

On January 7, 2021, Fischer exchanged the following messages with another Facebook user (Facebook User -1).

SV Spindrift (Fischer): Well I may need a job ...

SV Spindrift (Fischer): Word got out that I was at the rally..lol

Facebook User-1: Are you serious?

Facebook User-1: Who the hell told your work? One of your friends?

Facebook User-1: That's bullshit

SV Spindrift (Fischer): Yeah .. and the FBI may arrest me ..lol

SV Spindrift (Fischer): >>>Bail<<<<

Facebook User-1: Are you shitting me? This is a joke right?

Facebook User-1: You're fucking around

Facebook User-1: I seen a lot of people online getting arrested but slapped with a trespassing charge

SV Spindrift (Fischer): No.. havnt seen FBI yet .. but I know they are targeting police who went

Facebook User-1: Did your job say something to you?

SV Spindrift (Fischer): Yep.... chief did

SV Spindrift (Fischer): I told him if that is the price I have to pay to voice my freedom and liberties which I was born with and thusly taken away then then must be the price...

SV Spindrift (Fischer): .. I told him I have no regrets and give zero shits

SV Spindrift (Fischer): Sometimes doing the right thing no matter how small is more important than ones own security.

On January 7, 2021, Fischer posted the following photos of himself to Facebook which appear to have been taken at the “Stop the Steal” rally. In the photos, Fischer can be seen wearing black framed glasses with a navy blue sweater underneath a red coat. Fischer also appears to be carrying a large bag.



Further investigation revealed that Fischer was captured on video footage from a law enforcement database of pictures and videos from the Capitol riot on January 6, 2021. The source of the video was a body camera worn by a Washington Metropolitan Police Department (MPD) officer responding to the Capitol on January 6. The total length of the video is 22 minutes and 48 seconds. Based on the date and time stamp on the body camera, the recording started on January

6, 2021, at or around 3:07 PM, and ended at or around 3:29 PM. The footage showed MPD officers trying to control and push out individuals inside the Capitol building who were not authorized to be there. At or around 15:25:00 a minor scuffle erupted between the MPD officers and some of the trespassers. At or around 15:25:17 an individual at or immediately around the area of the scuffle could be seen wearing the same clothing worn by Joseph Fischer, as described above. This individual can be seen wearing a navy blue sweater with black framed glasses folded into the front collar of the sweater. The red coat is not visible. Your affiant infers that the over coat had been removed.

This individual could be seen a few more times up until about 15:25:20. Based on the individual's body movements, he seemed to be getting up from the ground. Other individuals seemed to be assisting him. At least one police officer could be seen on the ground. Another individual could be seen and heard shouting "Let him up...Let him up". Immediately after the end of the scuffle, at or around 15:25:31, an individual could be heard saying "I am a cop. I am a cop, too." Based on the tone and speed of the shout "Let him up...let him up", your affiant reasonably believes that this footage is from the same scuffle that the above-mentioned Facebook footage captured. Still images from the video recording are below.







Based on the foregoing, your affiant submits that there is probable cause to believe that Joseph Wayne Fischer violated 18 U.S.C. § 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement

officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of 18 U.S.C. § 231, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.

Your affiant submits there is also probable cause to believe that Joseph Wayne Fischer violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions. For purposes of 18 U.S.C. § 1752, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Your affiant submits there is also probable cause to believe that Joseph Wayne Fischer violated 40 U.S.C. § 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Finally, your affiant submits there is probable cause to believe that Joseph Wayne Fischer violated 18 U.S.C. § 1512(c)(2), which makes it a crime to obstruct, influence, or impede any official proceeding, or attempt to do so. Under 18 U.S.C. § 1515, congressional proceedings are official proceedings.



MUSTAFA KUTLU
SPECIAL AGENT FBI

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 17th day of February 2021.


G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE

Digital signature by G.
Michael Harvey
Date: 2021.02.17
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